

Department of Energy

§ 600.22

§ 600.21 Access to records.

(a) In addition to recipient and subrecipient responsibilities relative to access to records specified in §§ 600.153, 600.242 and 600.342, for any negotiated contract or subcontract in excess of \$10,000 under a grant or cooperative agreement, DOE, the Comptroller General of the United States, the recipient and the subrecipient (if the contract was awarded under a financial assistance subaward), or any of their authorized representatives shall have the right of access to any books, documents, papers, or other records of the contractor or subcontractor which are pertinent to that contract or subcontract, in order to make audit, examination, excerpts, and copies.

(b) The right of access may be exercised for as long as the applicable records are retained by the recipient, subrecipient, contractor, or subcontractor.

[61 FR 7166, Feb. 26, 1996, as amended at 74 FR 44276, Aug. 28, 2009]

§ 600.22 Disputes and appeals.

(a) *Informal dispute resolution.* Whenever practicable, DOE shall attempt to resolve informally any dispute over the award or administration of financial assistance. Informal resolution, including resolution through an alternative dispute resolution mechanism, shall be preferred over formal procedures, to the extent practicable.

(b) *Alternative dispute resolution (ADR).* Before issuing a final determination in any dispute in which informal resolution has not been achieved, the Contracting Officer shall suggest that the other party consider the use of voluntary consensual methods of dispute resolution, such as mediation. The DOE dispute resolution specialist is available to provide assistance for such disputes, as are trained mediators of other federal agencies. ADR may be used at any stage of a dispute.

(c) *Final determination.* Whenever a dispute is not resolved informally or through an alternative dispute resolution process, DOE shall mail (by certified mail) a brief written determination signed by a Contracting Officer, setting forth DOE's final disposition of

such dispute. Such determination shall contain the following information:

(1) A summary of the dispute, including a statement of the issues and of the positions taken by the Department and the party or parties to the dispute; and

(2) The factual, legal and, if appropriate, policy reasons for DOE's disposition of the dispute.

(d) *Right of appeal.* Except as provided in paragraph (f)(1) of this section, the final determination under paragraph (c) of this section may be appealed to the cognizant Senior Procurement Executive (SPE) for either DOE or the National Nuclear Security Administration (NNSA). The mailing address for the DOE SPE is Office of Procurement and Assistance Management, 1000 Independence Ave., SW, Washington, DC 20585. The mailing address for the NNSA SPE is Office of Acquisition and Supply Management, 1000 Independence Ave., SW., Washington, DC 20585.

(e) *Effect of appeal.* The filing of an appeal with the SPE shall not stay any determination or action taken by DOE which is the subject of the appeal. Consistent with its obligation to protect the interests of the Federal Government, DOE may take such authorized actions as may be necessary to preserve the status quo pending decision by the SPE, or to preserve its ability to provide relief in the event the SPE decides in favor of the appellant.

(f) *Review on appeal.* (1) The SPE shall have no jurisdiction to review

(i) Any preaward dispute (except as provided in paragraph (f)(2)(ii) of this section), including use of any special restrictive condition pursuant to § 600.114, § 600.212, or § 600.304;

(ii) DOE denial of a request for a deviation under § 600.4, § 600.103, § 600.205, or § 600.303 of this part;

(iii) DOE denial of a request for a budget revision or other change in the approved project under § 600.125, § 600.127, § 600.222, § 600.230, § 600.315, or § 600.317 of this part or under another term or condition of the award;

(iv) Any DOE action authorized under § 600.162(a)(1), (2), (3) or (5), § 600.243(a)(1), (a)(3), or § 600.352(a)(1), (2), (3) or (5) for suspensions only; or § 600.162(a)(4), § 600.243(a)(4) or § 600.352(a)(4) for actions disapproving renewal applications or other requests